

CCRB INVESTIGATIVE RECOMMENDATION

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|---|--|---------------------------|--|---|---------------------------------|
| Investigator: Zachary Herman | Team: Squad #12 | CCRB Case #: 201903267 | <input checked="" type="checkbox"/> Force | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Monday, 04/08/2019 7:38 AM | Location of Incident: Northeast Corner of Lexington Avenue and 125th Street; 25th Precinct stationhouse | Precinct: 25 | 18 Mo. SOL 10/8/2020 | EO SOL 5/25/2021 | |
| Date/Time CV Reported Mon, 04/08/2019 10:57 AM | CV Reported At: IAB | How CV Reported: Phone | Date/Time Received at CCRB Tue, 04/16/2019 11:14 AM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
| | | |
| | | |

| Subject Officer(s) | Shield | TaxID | Command |
|--------------------------|--------|--------|---------|
| 1. POM Serbay Gobelek | 19459 | 959660 | 025 PCT |
| 2. POM Florin Alexandru | 17329 | 951488 | 025 PCT |
| 3. POM Anthony Steel | 06748 | 949694 | 025 PCT |
| 4. POM Matthew Sichel | 01884 | 966338 | 025 PCT |
| 5. POM Justin Senese | 21424 | 959978 | 025 PCT |
| 6. POM Keith Wagenhauser | 18817 | 960062 | 025 PCT |
| 7. LT Mario Deras | 00000 | 941650 | 025 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|-------------------------|---|-----------------------------|
| A.POM Keith Wagenhauser | Force: At the northeast corner of Lexington Avenue and 125th Street in Manhattan, Police Officer Keith Wagenhauser used a Taser against § 87(2)(b) | |
| B.POM Justin Senese | Force: At the northeast corner of Lexington Avenue and 125th Street in Manhattan, Police Officer Justin Senese used physical force against § 87(2)(b) | |
| C.POM Justin Senese | Force: At the northeast corner of Lexington Avenue and 125th Street in Manhattan, Police Officer Justin Senese used physical force against § 87(2)(b) | |
| D.POM Keith Wagenhauser | Force: At the northeast corner of Lexington Avenue and 125th Street in Manhattan, Police Officer Keith Wagenhauser used a Taser against § 87(2)(b) | |
| E.POM Keith Wagenhauser | Discourtesy: At the northeast corner of Lexington Avenue and 125th Street in Manhattan, Police Officer Keith Wagenhauser spoke discourteously to § 87(2)(b) | |
| F.POM Keith Wagenhauser | Abuse: At the northeast corner of Lexington Avenue and 125th Street in Manhattan, Police Officer Keith Wagenhauser refused to provide his shield number to § 87(2)(b) | |
| G.POM Justin Senese | Discourtesy: At the northeast corner of Lexington Avenue and 125th Street in Manhattan, Police Officer Justin Senese spoke discourteously to § 87(2)(b) | |
| H.POM Serbay Gobelek | Force: Inside the 25th Precinct stationhouse, Police Officer Serbay Gobelek used physical force against § 87(2)(b) | |

| Officer(s) | Allegation | Investigator Recommendation |
|------------------------|--|-----------------------------|
| I.POM Matthew Sichel | Force: Inside the 25th Precinct stationhouse, Police Officer Matthew Sichel used physical force against § 87(2)(b) | |
| J.POM Serbay Gobelek | Discourtesy: Inside the 25th Precinct stationhouse, Police Officer Serbay Gobelek spoke discourteously to § 87(2)(b) | |
| K.POM Serbay Gobelek | Force: Inside the 25th Precinct stationhouse, Police Officer Serbay Gobelek used physical force against § 87(2)(b) | |
| L.POM Florin Alexandru | Force: Inside the 25th Precinct stationhouse, Police Officer Florin Alexandru used physical force against § 87(2)(b) | |
| M.POM Anthony Steel | Force: Inside the 25th Precinct stationhouse, Police Officer Anthony Steel used physical force against § 87(2)(b) | |
| N.POM Matthew Sichel | Force: Inside the 25th Precinct stationhouse, Police Officer Matthew Sichel used physical force against § 87(2)(b) | |
| O.LT Mario Deras | Abuse: Inside the 25th Precinct stationhouse, Lieutenant Mario Deras did not obtain medical treatment for § 87(2)(b) | |

Case Summary

On April 11, 2019, NYPD IAB generated original log #19-13783 regarding this case. On April 16, 2019, the CCRB received this case from NYPD IAB.

On April 8, 2019, at approximately 7:38 a.m., PO Justin Senese and PO Keith Wagenhauser of the 25th Precinct observed § 87(2)(b) stab an unidentified male in the vicinity of the northeast corner of Lexington Avenue and 125th Street in Manhattan. The officers approached § 87(2)(b) to arrest him. § 87(2)(b) fled across East 125th Street. PO Wagenhauser discharged his conducted energy weapon (CEW or “Taser”) at § 87(2)(b) (**Allegation A: Force**, § 87(2)(b)). Both officers pursued § 87(2)(b) on foot, when they caught up to him across East 125th Street, § 87(2)(b) alleged they conducted a forcible takedown, punched him, and used a CEW in drive-stun mode (**Allegation B: Force**, § 87(2)(g) **Allegation C: Force**, § 87(2)(g) **Allegation D: Force**, § 87(2)(g)).

On scene, a witness, § 87(2)(b) spoke with PO Wagenhauser. PO Wagenhauser told § 87(2)(b) “Go the fuck over here.” (**Allegation E: Discourtesy**, § 87(2)(g) § 87(2)(b) said, “Give me your badge number, I want your fucking badge number,” to PO Wagenhauser, who walked away without responding (**Allegation F: Abuse of Authority**, § 87(2)(g)). While speaking with another officer, PO Senese stated, “He fucking cracked him,” § 87(2)(b) responded to this statement (**Allegation G: Discourtesy**, § 87(2)(g)).

§ 87(2)(b) alleged that when officers were escorting him from the desk area to the cell area of the 25th precinct stationhouse, an officer pulled on his handcuff chain (**Allegation H-I: Force**, § 87(2)(g)). Once inside the cell area, § 87(2)(b) sat in a chair while officers removed items he could not take into the cell area. PO Sergay Gobelek, PO Florin Alexandru, PO Matthew Sitchel, and PO Anthony Steel, all from the 25th Precinct instructed § 87(2)(b) to stand up. PO Gobelek stated, “Don’t put your fucking hands on me.” (**Allegation J: Discourtesy**, § 87(2)(g) § 87(2)(b) stated that officers conducted a forcible takedown and threw into the cell area, where he alleged he struck his head (**Allegations K-N: Force**, § 87(2)(g) § 87(2)(b) alleged that officers refused to obtain medical treatment for him while he was in the cells, he was transported to a hospital and treated on the date of the incident (**Allegation O: Abuse of Authority**, § 87(2)(g)).

The investigation obtained body-worn camera footage from PO Senese, PO Jose Quintana, PO Paul Sclafani, PO Gobelek, PO Alexandru, PO Sichel, PO Bula, PO Felix Lene, PO Rumana Ali, PO Dinell Sinanan, PO Katrayen Arsen, PO Keith McGreevy, PO Tenzin Penpa, PO Alicia Villani, PO Nicholas Ragone, PO Nelson Quinones, PO Garrett Taverna, and Lieutenant Mario Deras (BR04, BR13-BR16).

Findings and Recommendations

Allegation (A) Force: At the northeast corner of Lexington Avenue and 125th Street in Manhattan, Police Officer Keith Wagenhauser used a Taser against § 87(2)(b)

Allegation (B) Force: At the northeast corner of Lexington Avenue and 125th Street in Manhattan, Police Officer Justin Senese used physical force against § 87(2)(b)

Allegation (C) Force: At the northeast corner of Lexington Avenue and 125th Street in Manhattan, Police Officer Justin Senese used physical force against § 87(2)(b)

Allegation (D) Force: At the northeast corner of Lexington Avenue and 125th Street in Manhattan, Police Officer Keith Wagenhauser used a Taser in drive stun mode against § 87(2)(b)

In his statement to the CCRB, § 87(2)(b) stated that prior to the incident, he had consumed an unknown quantity of Klonopin and Adderall. Klonopin impacts § 87(2)(b) by making him more aggressive, and Adderall makes § 87(2)(b) more focused. § 87(2)(b) got into a physical fight with an unidentified individual in the vicinity of the south side of the intersection of Lexington Avenue and East 125th Street in Manhattan. At approximately 7:30 a.m. § 87(2)(b) pulled out a knife, the dimensions of which he did not recall, and may have stabbed the unidentified individual.

Immediately after § 87(2)(b) may have stabbed the unidentified individual, two uniformed police officers, PO Justin Senese and PO Keith Wagenhauser, approached § 87(2)(b). § 87(2)(b) was walking past East 125th Street towards Third Avenue. As § 87(2)(b) walked away, the officers instructed him to stop multiple times. After he had walked several feet, PO Senese grabbed him. Both officers told § 87(2)(b) to stop multiple times. § 87(2)(b) wanted to get away and tried to evade the officers' attempts to stop him. After a few seconds, PO Senese pushed § 87(2)(b) onto the ground by grabbing him around his right shoulder and throwing him on the ground. § 87(2)(b) was face-down on the street. § 87(2)(b) resisted PO Senese's attempts to handcuff him, and one of the officers drove his Taser into § 87(2)(b)'s lower back and used his Taser on him for several seconds (BR01).

In his statement to the CCRB, PO Senese stated that he and PO Wagenhauser approached the site of the altercation. When they were approximately 20 feet away, PO Senese saw two men, one of whom was § 87(2)(b) facing each other. § 87(2)(b) lunged towards the unidentified individual with one of his hands, then struck him, possibly with the same hand. § 87(2)(b) then observed the officers and ran across Lexington Avenue. PO Senese and PO Wagenhauser chased § 87(2)(b). PO Wagenhauser was in front of PO Senese, but the officers got separated somewhat by oncoming traffic. As they pursued § 87(2)(b) PO Senese observed § 87(2)(b) drop a metal object from his hand when PO Senese was five to ten feet from § 87(2)(b). As PO Senese ran after § 87(2)(b) he heard a sound he recognized as Taser discharge, which he described as a popping sound. PO Senese did not observe any effect that had on § 87(2)(b). PO Senese did not observe PO Wagenhauser draw his Taser. As PO Senese neared § 87(2)(b) he grabbed for § 87(2)(b). As PO Senese grabbed for § 87(2)(b) § 87(2)(b) fell down. PO Senese did not make contact with § 87(2)(b). § 87(2)(b) tripped. § 87(2)(b) fell on his stomach. PO Senese straddled § 87(2)(b) while he attempted to place § 87(2)(b) in handcuffs. § 87(2)(b) resisted PO Senese's attempt to handcuff him by tensing his arms. After approximately ten seconds, PO Senese successfully handcuffed § 87(2)(b) by pulling his arms behind his back. PO Wagenhauser assisted PO Senese in securing § 87(2)(b) in handcuffs. PO Senese did not observe PO Wagenhauser use his Taser in drive-stun mode on § 87(2)(b). PO Senese did not observe the Taser in PO Wagenhauser's hand while he struggled with § 87(2)(b) (BR08).

In his statement to the CCRB, PO Wagenhauser stated he was less than ten feet behind § 87(2)(b)

when he observed a black object that he believed to be a knife clutched in § 87(2)(b)'s hand. PO Wagenhauser did not recall which hand § 87(2)(b) gripped the object in. PO Wagenhauser was unable to provide a description of the object beyond his belief that it was a knife and it was black. PO Wagenhauser did not state why he believed the object was a knife. As PO Wagenhauser pursued § 87(2)(b) he believed that it was possible § 87(2)(b) would turn around and attempt to stab him using the object. PO Wagenhauser drew his Taser and discharged it at § 87(2)(b) to prevent § 87(2)(b) from injuring PO Wagenhauser, PO Senese, or other nearby civilians. PO Wagenhauser was five to ten feet from § 87(2)(b) when he discharged his Taser. § 87(2)(b) was running when PO Wagenhauser discharged his Taser. PO Wagenhauser did not observe whether the Taser darts struck § 87(2)(b) or not. He did not observe where the darts from the Taser went. The Taser discharge was not effective at stopping § 87(2)(b) who kept running.

PO Wagenhauser observed § 87(2)(b) trip and fall to the ground. § 87(2)(b) fell himself, neither officer pushed § 87(2)(b) or came into any physical contact with him to cause him to fall. As PO Wagenhauser was chasing § 87(2)(b) he holstered his Taser. When PO Wagenhauser reached § 87(2)(b) PO Senese was struggling with § 87(2)(b) to handcuff him. PO Wagenhauser stated that § 87(2)(b) was resisting arrest by tensing his arms. He did not observe PO Senese use any strikes on § 87(2)(b). PO Wagenhauser did not use his Taser in drive stun mode on § 87(2)(b) (BR07).

On PO Senese's body-worn camera, between 00:14 and 00:16 minutes, § 87(2)(b) drives one of his arms towards an unidentified male. At 00:17-00:18 minutes, the male falls on the ground, at 00:19, § 87(2)(b) is visible with an object possibly in his right hand. § 87(2)(b) is wearing a black jacket, orange hooded sweatshirt, green, brown, or grey shirt, and grey pants. Between 00:20 and 00:21, § 87(2)(b) appears to drop an object from his hand onto the street, an object is briefly visible on the street as PO Senese runs past it. PO Senese pursues § 87(2)(b) across the street, and catches up with him at 00:37 minutes on the opposite side of the street from where the male and § 87(2)(b) interacted. § 87(2)(b) falls to the ground between 00:37 and 00:38 minutes (BR04).

PO Wagenhauser's X-26 Taser Sheet for Taser X130045AY shows one discharge for five seconds on the incident date (BR18).

PO Wagenhauser prepared TRI § 87(2)(b) regarding his discharge of a CEW. The TRI states the CEW was discharged once in probe mode, and that the discharge was ineffective (BR20).

NYPD Patrol Guide Procedure 221-02 states that MOS will use only the reasonable force necessary to gain control or custody of a subject. It states that in determining whether the use of force is reasonable, members of service should consider the following factors: the nature and severity of the crime/circumstances; the actions taken by the subject; the duration of the action; the immediacy of the perceived threat or harm; whether the subject is actively resisting custody; whether the subject is attempting to evade arrest by flight; the number of subjects compared to the number of MOS; the size, age, and condition of the subject in comparison to the MOS; a subject's violent history if known; the presence of a hostile crowd or agitators; and whether the subject is apparently under the influence of a stimulant or narcotic which would affect pain tolerance or increase the likelihood of violence (BR02).

NYPD Patrol Guide Procedure 221-08 states that in assessing whether to discharge a taser, an officer must assess the factors listed in 221-02 in deciding the reasonable amount of force necessary to overcome resistance. A CEW should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other persons present (BR03).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (E) Discourtesy: At the northeast corner of Lexington Avenue and 125th Street in Manhattan, Police Officer Keith Wagenhauser spoke discourteously to § 87(2)(b)
Allegation (F) Abuse of Authority: At the northeast corner of Lexington Avenue and 125th Street in Manhattan, Police Officer Keith Wagenhauser refused to provide his shield number to § 87(2)(b)

PO Lene's body-worn camera footage depicts PO Wagenhauser pushing a civilian identified by the investigation as § 87(2)(b) towards a wall at time stamp 00:51-01:10 (BR22). From a different angle, PO Quintana's body-worn camera footage, between 1:00-1:15 minutes, PO Wagenhauser states, "Get the fuck over there." § 87(2)(b) states, "Give me your badge number, I want your fucking badge number." PO Wagenhauser does not respond to this request and does not provide the information (BR23).

PO Wagenhauser told the CCRB that he did not recall interacting with a civilian female on scene (BR07). He specifically did not recall interacting with § 87(2)(b) on scene. He did not recall saying, "Get the fuck over there" to any civilian on scene. PO Wagenhauser did not recall using any profanity towards any civilian on scene. PO Wagenhauser was shown video from PO Lene's BWC (BR23). PO Wagenhauser was shown a static frame at 00:59 minutes, PO Wagenhauser can be observed pushing § 87(2)(b) towards a wall. PO Wagenhauser identified himself as the officer on the left of the screen. Watching the video from 00:51 to 01:10 did not refresh PO Wagenhauser's independent recollection of the incident. PO Wagenhauser was shown video from PO Quintana's BWC (BR22) from 01:00-01:15 minutes, a voice can be heard saying, "Get the fuck over there." § 87(2)(b) can be heard saying, "Give me your badge number, I want your fucking badge number." PO Wagenhauser stated that he did not recognize his own voice making that statement.

NYPD Patrol Guide Procedure 203-09 states that officers are to courteously state their rank, name, shield number, and command, or otherwise provide them, to anyone who requests they do so (BR25).

NYPD Patrol Guide Procedure 200-02 states that officers are to render their services with courtesy and civility (BR30).

While Disciplinary Case 2013-10143 affirms that officers should remain courteous and professional, it makes an exception in that profane remarks may be permissible in the context of a dangerous situation or when added as an intensifier added to a lawful command in the context of a dangerous situation (BR26).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation (G) Discourtesy: At the northeast corner of Lexington Avenue and 125th Street in Manhattan, Police Officer Justin Senese spoke discourteously to § 87(2)(b)

PO Sclafani's body-worn camera footage depicts PO Senese saying, "He fucking cracked some guy on the head" as he lifts § 87(2)(b) up off the ground, § 87(2)(b) responds, "That's because of him," gesturing at an individual (BR15).

PO Senese did not recall using profanity towards § 87(2)(b) during the incident. PO Senese identified viewed a static frame in PO Quintana's body-worn camera at 00:37 minutes and he identified as himself. He was shown the video starting at timestamp 00:32 through 00:40. PO Senese stated he did not hear himself making the statement, "He fucking cracked him." PO Senese stated he heard, "He cracked him" in the course of his in-person statement (BR08).

Per the Patrol Guide cited in rules section of Allegation E, officers are to render their services with courtesy and civility (BR30).

Per the Disciplinary Case cited in the rules section of Allegation E, while officers are to remain courteous in their interactions with civilians, context can render such statements permissible (BR26).

According to the Patrol Guide, police officers must treat members of the public with courtesy and civility. NYPD Disciplinary Case Law presents a matrix to analyze the context when an officer makes a discourteous or profane remark. § 87(2)(g)

[REDACTED]

§ 87(2)(g)

Allegation (H) Force: At the 25th Precinct stationhouse, Police Officer Serbay Gobelek used physical force against § 87(2)(b)

Allegation (I) Force: At the 25th Precinct stationhouse, Police Officer Matthew Sichel used physical force against § 87(2)(b)

§ 87(2)(b) stated that after arriving at the 25th Precinct stationhouse, he was angry, and was shouting and moving around as officers took him back to the cells. § 87(2)(b) did not specify how he was moving. As he was being walked to the cells, an officer pulled on § 87(2)(b)'s handcuff chain and lifted § 87(2)(b)'s arms up (BR01).

PO Steel's body-worn camera depicts officers escorting § 87(2)(b) from the lobby of the 25th Precinct stationhouse to the cell area. Between 7:12 minutes and 7:33 minutes, PO Gobelek and PO Sichel escort § 87(2)(b) from the lobby area to the cell area. § 87(2)(b) twists his torso as PO Gobelek and PO Sichel escort him. Neither officer pulls on § 87(2)(b)'s handcuff chain while they escort him (BR16).

PO Gobelek and PO Sichel both denied pulling on § 87(2)(b)'s handcuff chain as they escorted him in the course of their sworn testimony (BR06, BR05).

§ 87(2)(g)

Allegation (J) Discourtesy: At the 25th Precinct stationhouse, Police Officer Serbay Gobelek spoke discourteously to § 87(2)(b)

Body-worn camera footage from PO Steel, shown from 10:00 minutes, captured this allegation. At 10:00 minutes, at a static frame, PO Gobelek positively identified himself as the officer depicted in the video. § 87(2)(b)'s right hand makes contact with the left side of PO Gobelek's chest, PO Gobelek states, "Do not put your fucking hands on me" at 10:05 in the video and in the audio recording (BR16).

PO Gobelek did not recall if he said, "Do not put your fucking hands on me" to § 87(2)(b) in the holding cell area. PO Gobelek was shown video from PO Steel's body-worn camera. PO Gobelek acknowledging making profane the statement and said he made it to induce § 87(2)(b) to comply with his instructions. PO Gobelek had his CEW on his person at the time, and stated he believed it was possible § 87(2)(b) was reaching for it (BR06).

Per the Patrol Guide cited in the rules section of Allegation E, officers are to render their services with courtesy and civility (BR30).

Per the Disciplinary Case cited in the rules section of Allegation E, while officers are to remain courteous in their interactions with civilians, context can render such statements permissible (BR26).

§ 87(2)(g)

Allegation (K) Force: At the 25th Precinct stationhouse, Police Officer Serbay Gobelek used physical force against § 87(2)(b)

Allegation (L) Force: At the 25th Precinct stationhouse, Police Officer Florin Alexandru used physical force against § 87(2)(b)

Allegation (M) Force: At the 25th Precinct stationhouse, Police Officer Anthony Steel used physical force against § 87(2)(b)

Allegation (N) Force: At the 25th Precinct stationhouse, Police Officer Matthew Sichel used physical force against § 87(2)(b)

§ 87(2)(b) stated once the group reached the holding cells, an officer removed § 87(2)(b)'s handcuffs. § 87(2)(b) was belligerent and yelling at the officers. An officer re-cuffed § 87(2)(b) and once he was cuffed, an officer pulled on the handcuff chain again. Officers threw § 87(2)(b) into the holding cell. § 87(2)(b) struck the top of his head on a bench in the holding cell when he landed on the right side of his body (BR01).

In his statement to the CCRB, PO Gobelek stated that once the officers and § 87(2)(b) reached the cell area, they placed § 87(2)(b) in a chair. An officer removed § 87(2)(b)'s handcuffs. Officers instructed § 87(2)(b) to remove various outwear and strings from his clothing, § 87(2)(b) was not compliant with officers' instructions. § 87(2)(b) repeatedly screamed for a captain. Eventually, § 87(2)(b) was stood back up. As § 87(2)(b) stood in the holding cell area, he began to physically resist officers' attempts to remove drawstrings and other items from his person, and to place him in handcuffs. He twisted his body, tensed his arms, and swung his right arm towards PO Gobelek's body several times. PO Gobelek did not recall if § 87(2)(b)'s arm struck his body. At the time, PO Gobelek did not know if § 87(2)(b) was attempting to strike him, or if § 87(2)(b) was attempting to grab PO Gobelek's taser or baton off of his belt. PO Gobelek did not have his firearm on him at this time. After struggling with § 87(2)(b) for some period of time, PO Gobelek and the other officers present levered § 87(2)(b) onto the ground. PO Gobelek had a grasp on one of § 87(2)(b)'s arms. Once § 87(2)(b) was on the ground, he continued to attempt to physically resist officers' attempts to place him in handcuffs, but officers managed to rear-cuff § 87(2)(b). Officers then pulled § 87(2)(b) to his feet. The officers escorted him into the nearby cell. PO Gobelek did not recall if he threw § 87(2)(b) into the cell, did not recall if any other officer threw § 87(2)(b) into the cell, and did not recall if he saw § 87(2)(b) strike his head on the bench inside the cell (BR06).

§ 87(2)(g) PO Alexandru added that he did not observe did not observe any officer throw § 87(2)(b) into the cell. PO Alexandru did not observe § 87(2)(b) strike his head on the bench in the holding cell. He himself did not throw § 87(2)(b) into the holding cell (BR05).

PO Sichel and PO Steel's testimony was consistent with PO Gobelek and PO Alexandru (BR09; BR24).

PO Senese did not recall interacting with § 87(2)(b) in the cell area (BR08).

Video from PO Alexandru's body-worn camera, captures the physical interaction. At 17:05 minutes, PO Alexandru instructs § 87(2)(b) to stand up and place his hands on the wall. PO Gobelek appears to be attempting to remove a draw string from § 87(2)(b)'s shirt. At 17:17 minutes, PO Alexandru's camera is knocked off of his body when § 87(2)(b) thrashes into him. § 87(2)(b) repeatedly yells, "Look at what your officers are doing to me." Officers are holding § 87(2)(b) they are otherwise not doing anything. At 17:59 minutes, § 87(2)(b) sags onto the ground. At 18:36 minutes, after the sounds of a struggle, an officer places PO Alexandru's camera on the table. Once the camera is placed on the table, multiple officers are visible, bent over. § 87(2)(b) is not visible. At 19:54 minutes PO Gobelek and another officer lift § 87(2)(b) onto his feet. At 20:17 minutes PO Gobelek escorts § 87(2)(b) into the holding cell, and places him over a bench (BR28).

An ISAR prepared regarding the force used towards § 87(2)(b) throughout the incident was consistent with officer testimony (BR21).

NYPD Patrol Guide Procedure 221-02 states that MOS will use only the reasonable force necessary to gain control or custody of a subject. It states that in determining whether the use of force is reasonable, members of service should consider a matrix of factors listed above in the rule section analyzing Allegations A-C (BR02).

§ 87(2)(g)

Allegation (O) Abuse of Authority: At the 25th Precinct stationhouse, Lieutenant Mario Deras did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) alleged that he repeatedly requested medical attention once inside the 25th Precinct stationhouse. § 87(2)(b) did not specify when he made this request. He also stated that inside the holding cell, § 87(2)(b) repeatedly screamed for help and that he wanted to be transported to the hospital (BR01).

§ 87(2)(b) does not request medical attention during his initial interactions with police officers inside the stationhouse. PO Gobelek's body-worn camera and PO Alexandru's body-worn camera. § 87(2)(b) does repeatedly request to speak to a superior officer by screaming, "Captain" (BR14, BR28).

Lieutenant Deras' body-worn camera shows Lt. Deras speaking with § 87(2)(b) and PO Senese in the cell. The native timestamp in the video at 00:12 is 2019/04/08 with a time shown of 08:29:58 GMT-4. Lt. Deras speaks to § 87(2)(b) beginning at timestamp 00:30 minutes. He states that § 87(2)(b) previously refused medical attention to EMTs. He confirms this with PO Senese at 00:50, and then clarifies with § 87(2)(b) that § 87(2)(b) wants to go to the hospital. He instructs PO Senese to call for emergency medical services, then deactivates his body-worn camera (BR13).

The Tour 1 Command Log from the 25th Precinct stationhouse reflects that § 87(2)(b) was brought to the stationhouse at 7:40 a.m., at which time § 87(2)(b) is listed as having refused medical attention. The Command Log later reflects that at § 87(2)(b) an ambulance (referred to as a "bus"

on the Command Log) transported § 87(2)(b) to § 87(2)(b) (BR29). A Medical Treatment of Prisoner report prepared on April 8, 2019, reflects that § 87(2)(b) was transported to § 87(2)(b) at § 87(2)(b) by EMT Olivo (BR12).

Medical records provided by § 87(2)(b) show § 87(2)(b) received medical treatment on April 8, 2019 (Privileged documents).

§ 87(2)(g)
§ 87(2)(g)
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§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g).

Civilian and Officer CCRB Histories

- § 87(2)(b) has been a party to two CCRB complaints and has been named as a victim in 31 allegations (BR11).
 - § 87(2)(b)
- PO Gobelek has been a member of service for four years and has been a subject in four CCRB complaints and eight allegations, none of which were substantiated. § 87(2)(g)
- PO Senese has been a member of service for four years and has been a subject in four CCRB complaints and six allegations, of which one was substantiated. § 87(2)(g)
 - 201800068 involved a substantiated allegation of premises entered or search. The Board recommended and the NYPD imposed Command Discipline A.
- PO Alexandru has been a member of service for seven years and has been a subject in five CCRB complaints and nine allegations, none of which were substantiated. § 87(2)(g)
- PO Steel has been a member of service for nine years and has been a subject in three CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)
- PO Sichel has been a member of service for one year and this is the first CCRB complaint to which he has been a subject.
- PO Wagenhauser has been a member of service for four years and has been a subject in two CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)
- Lieutenant Deras has been a member of service for 13 years and has been a subject in two CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case is ineligible for mediation as § 87(2)(b) was arrested regarding this case.
 - [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- On December 20, 2019, the New York City Office of the Comptroller responded to a FOIL request regarding Notices of Claim filed in relation to this case. The office did not locate any Notices of Claim (BR27).

Squad No.: 12

| | | | |
|---------------|-----------------------|------------------------------------|-------------------|
| Investigator: | <u>Zachary Herman</u> | <u>Investigator Zachary Herman</u> | <u>04/20/2020</u> |
| | Signature | Print Title & Name | Date |

Squad Leader: Chris Anderson SI Chris Anderson 04/21/2020
Signature Print Title & Name Date

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____